

SECOND REGULAR SESSION

HOUSE BILL NO. 1193

96TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES FREDERICK (Sponsor), TILLEY, BRANDOM, SMITH (150),
JONES (89), NANCE, SCHATZ, HOUGHTON, FITZWATER, SWEARINGEN,
MEADOWS AND SATER (Co-sponsors).

4964L.02I

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To amend chapter 195, RSMo, by adding thereto ten new sections relating to a prescription drug monitoring program, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 195, RSMo, is amended by adding thereto ten new sections, to be
2 known as sections 195.450, 195.453, 195.456, 195.459, 195.462, 195.465, 195.468, 195.474,
3 195.477, and 195.480, to read as follows:

195.450. 1. Sections 195.450 to 195.480 shall be known and may be cited as the
2 **"Prescription Drug Monitoring Program Act".**

3 **2. As used in sections 195.450 to 195.480, the following terms mean:**

4 **(1) "Controlled substance", the same meaning given such term in section 195.010;**

5 **(2) "Department", the department of health and senior services;**

6 **(3) "Dispenser", a person who delivers a schedule II, III, IV, or V controlled**
7 **substance to the ultimate user, but does not include:**

8 **(a) A hospital, as defined in section 197.020, that distributes such substances for the**
9 **purpose of inpatient hospital care or dispenses prescriptions for controlled substances at**
10 **the time of discharge from an inpatient stay at such facility;**

11 **(b) A practitioner or other authorized person who administers such a substance;**

12 **or**

13 **(c) A wholesale distributor of a schedule II, III, IV, or V controlled substance;**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

14 (4) "Patient", a person who is the ultimate user of a drug for whom a prescription
15 is issued or for whom a drug is dispensed;

16 (5) "Schedule II, III, IV, or V controlled substance", a controlled substance that
17 is listed in schedules II, III, IV, or V of the schedules provided under this chapter or the
18 Federal Controlled Substances Act, 21 U.S.C. Section 812.

19 3. Notwithstanding any other law to the contrary, the provisions of this section shall
20 not apply to persons licensed under chapter 340.

 195.453. 1. The department of health and senior services shall establish and
2 maintain a program for the monitoring of prescribing and dispensing of all schedule II, III,
3 IV, and V controlled substances by all professionals licensed to prescribe or dispense such
4 substances in this state. The department may apply for any available grants and shall
5 accept any gifts, grants, or donations to develop and maintain the program. All funding
6 for prescription drug monitoring program shall be provided exclusively by gifts, grants,
7 and donations.

8 2. Each dispenser shall submit to the department by electronic means information
9 regarding each dispensation of a drug included in subsection 1 of this section. The
10 information submitted for each shall include, but not be limited to:

- 11 (1) The dispenser identification number;
- 12 (2) The date of the dispensation;
- 13 (3) If there is a prescription:
 - 14 (a) The prescription number;
 - 15 (b) Whether the prescription is new or a refill;
 - 16 (c) The prescriber identification number;
 - 17 (d) The date the prescription is issued by the prescriber;
 - 18 (e) The person who receives the prescription from the dispenser, if other than the
19 patient;
 - 20 (f) The source of payment for the prescription;
- 21 (4) The NDC code for the drug dispensed;
- 22 (5) The number of days' supply of the drug;
- 23 (6) The quantity dispensed;
- 24 (7) The patient identification number;
- 25 (8) The patient's name, address, and date of birth.

26 3. Each dispenser shall submit the information in accordance with transmission
27 methods and frequency established by the department; except that, each dispenser shall
28 report at least every seven days.

29 **4. The department may issue a waiver to a dispenser that is unable to submit**
30 **dispensation information by electronic means. Such waiver may permit the dispenser to**
31 **submit dispensation information by paper form or other means, provided all information**
32 **required in subsection 2 of this section is submitted in such alternative format.**

33 **5. The department shall reimburse each dispenser for the fees and other direct costs**
34 **of transmitting the information required by this section.**

195.456. 1. Dispensation information submitted to the department shall be
2 **confidential and not subject to public disclosure under chapter 610 except as provided in**
3 **subsections 3 to 5 of this section.**

4 **2. The department shall maintain procedures to ensure that the privacy and**
5 **confidentiality of patients and personnel information collected, recorded, transmitted, and**
6 **maintained is not disclosed to persons except as provided in subsections 3 to 5 of this**
7 **section.**

8 **3. The department shall review the dispensation information and, if there is**
9 **reasonable cause to believe a violation of law or breach of professional standards may have**
10 **occurred, the department shall notify the appropriate law enforcement or professional**
11 **licensing, certification, or regulatory agency or entity, and provide dispensation**
12 **information required for an investigation.**

13 **4. The department may provide data in the controlled substances dispensation**
14 **monitoring program to the following persons:**

15 **(1) Persons, both in-state and out-of-state, authorized to prescribe or dispense**
16 **controlled substances for the purpose of providing medical or pharmaceutical care for**
17 **their patients;**

18 **(2) An individual who requests his or her own dispensation monitoring information**
19 **in accordance with state law;**

20 **(3) The state board of pharmacy;**

21 **(4) Any state board charged with regulating a professional that has the authority**
22 **to prescribe or dispense controlled substances that requests data related to a specific**
23 **professional under the authority of that board;**

24 **(5) Local, state, and federal law enforcement or prosecutorial officials, both in-state**
25 **and out-of-state engaged in the administration, investigation, or enforcement of the laws**
26 **governing licit drugs based on a specific case and under a subpoena or court order;**

27 **(6) The family support division within the department of social services regarding**
28 **Medicaid program recipients;**

29 **(7) A judge or other judicial authority under a subpoena or court order; and**

30 **(8) Personnel of the department of health and senior services for the administration**
31 **and enforcement of sections 195.450 to 195.480.**

32 **5. The department may provide data to public or private entities for statistical,**
33 **research, or educational purposes after removing information that could be used to identify**
34 **individual patients, prescribers, or persons who received dispensations from dispensers.**

35 **6. Nothing in sections 195.450 to 195.480 shall be construed to require a pharmacist**
36 **or prescriber to obtain information about a patient from the database. A pharmacist or**
37 **prescriber shall not be held liable for damages to any person in any civil action for injury,**
38 **death, or loss to person or property on the basis that the pharmacist or prescriber did or**
39 **did not seek or obtain information from the database.**

195.459. The department is authorized to contract with any other agency of this
2 **state or with a private vendor, as necessary, to ensure the effective operation of the**
3 **prescription monitoring program. Any contractor shall comply with the provisions**
4 **regarding confidentiality of prescription information in section 195.456.**

195.462. The department shall promulgate rules setting forth the procedures and
2 **methods of implementing sections 195.450 to 195.480. Any rule or portion of a rule, as that**
3 **term is defined in section 536.010, that is created under the authority delegated in this**
4 **section shall become effective only if it complies with and is subject to all of the provisions**
5 **of chapter 536 and, if applicable, section 536.028. Sections 195.450 to 195.480 and chapter**
6 **536 are nonseverable and if any of the powers vested with the general assembly pursuant**
7 **to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are**
8 **subsequently held unconstitutional, then the grant of rulemaking authority and any rule**
9 **proposed or adopted after August 28, 2012, shall be invalid and void.**

195.465. 1. A dispenser who knowingly fails to submit dispensation monitoring
2 **information to the department as required in sections 195.450 to 195.480 or knowingly**
3 **submits the incorrect dispensation information is guilty of a class A misdemeanor.**

4 **2. A person authorized to have dispensation monitoring information under sections**
5 **195.450 to 195.480 who knowingly discloses such information in violation of sections**
6 **195.450 to 195.480 or who uses such information in a manner and for a purpose in**
7 **violation of sections 195.450 to 195.480 is guilty of a class A misdemeanor.**

195.468. 1. The department shall implement the following education courses:
2 **(1) An orientation course during the implementation phase of the dispensation**
3 **monitoring program established in section 195.453;**

4 **(2) A course for persons who are authorized to access the dispensation monitoring**
5 **information but who did not participate in the orientation course;**

6 (3) A course for persons who are authorized to access the dispensation monitoring
7 information but who have violated laws or breached occupational standards involving
8 dispensing, prescribing, and use of substances monitored by the dispensation monitoring
9 program established in section 195.453.

10
11 When appropriate, the department shall develop the content of the education courses
12 described in subdivisions (1) to (3) of this subsection.

13 2. The department shall, when appropriate:

14 (1) Work with associations for impaired professionals to ensure intervention,
15 treatment, and ongoing monitoring and followup; and

16 (2) Encourage individual patients who are identified and who have become
17 addicted to substances monitored by the dispensation monitoring program established in
18 section 195.453 to receive addiction treatment.

195.474. 1. By no later than January 1, 2014, the bureau of narcotics and
2 dangerous drugs within the department of health and senior services shall establish a two-
3 year statewide pilot project for the reporting of fraudulently obtained prescription
4 controlled substances. The pilot project shall include the following:

5 (1) Provide a toll-free number for reporting to the bureau by physicians,
6 pharmacists, and other health care professionals with prescriptive authority who have
7 reason to believe that a person is fraudulently attempting to obtain a prescription for a
8 controlled substance or is attempting to obtain an excessive amount of a controlled
9 substance by prescription;

10 (2) Establish a system within the bureau for receiving such reports under
11 subdivision (1) of this subsection along with any evidence offered or submitted by the
12 reporter which indicates the fraud; and

13 (3) Forward such reports, along with any evidence offered or submitted to the
14 appropriate prosecuting attorney or the state attorney general for investigation and
15 prosecution.

16 2. On or before February 1, 2014, and February 1, 2015, the bureau of narcotics
17 and dangerous drugs shall submit a report to the general assembly detailing the following
18 specifics regarding the pilot project:

19 (1) The number of reports received under this section;

20 (2) The type of evidence offered or submitted indicating the fraud;

21 (3) The number of referrals to the attorney general and each local prosecuting
22 attorney;

23 (4) The number of cases investigated and prosecuted as a result of such reporting,
24 and the number of convictions or pleas resulting from such investigations and
25 prosecutions. The attorney general and local prosecuting attorneys shall cooperate with
26 the bureau in the submission and collection of the information necessary for inclusion in
27 the report; and

28 (5) Any recommendations regarding continuance of and improvements in the pilot
29 project.

30

31 Nothing in this section shall be construed as authorizing the inclusion or release of any
32 identifying information of any reporter or person who is identified as a person who is
33 attempting to fraudulently obtain prescription controlled substances.

34 3. Any person who in good faith reports to the bureau under this section shall be
35 immune from any civil or criminal liability as the result of such good faith reporting.

36 4. The department of health and senior services may promulgate rules to implement
37 the provisions of this section. Any rule or portion of a rule, as that term is defined in
38 section 536.010, that is created under the authority delegated in this section shall become
39 effective only if it complies with and is subject to all of the provisions of chapter 536 and,
40 if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of
41 the powers vested with the general assembly pursuant to chapter 536 to review, to delay
42 the effective date, or to disapprove and annul a rule are subsequently held
43 unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted
44 after August 28, 2012, shall be invalid and void.

45 5. The department shall implement and provide all monitoring under the pilot
46 project with existing department employees. Nothing in this section shall be construed as
47 authorizing the hiring of additional employees to implement this pilot project and the
48 department is required to implement this pilot project upon receipt of gifts, grants, and
49 donations received for such purpose, without any additional state appropriations or
50 department staff; except that, the department may enter into agreements with other state
51 agencies or a private vendor, as necessary, to ensure the effective operations of the
52 program if such agreements are funded solely from gifts, grants, and donations. Any
53 agency or private vendor entering into an agreement with the department for the pilot
54 project shall comply with the confidentiality provisions regarding the prescription
55 information under section 195.456.

56 6. Under section 23.253 of the Missouri sunset act:

57 (1) The provisions of the new program authorized under this section shall
58 automatically sunset three years after the effective date of this section unless reauthorized
59 by an act of the general assembly; and

60 (2) If such program is reauthorized, the program authorized under this section
61 shall automatically sunset twelve years after the effective date of the reauthorization of this
62 section; and

63 (3) This section shall terminate on September first of the calendar year immediately
64 following the calendar year in which the program authorized under this section is sunset.

195.477. Under section 23.253 of the Missouri sunset act:

2 (1) The provisions of the new program authorized under sections 195.450 to
3 195.480 shall automatically sunset six years after the effective date of sections 195.450 to
4 195.480 unless reauthorized by an act of the general assembly; and

5 (2) If such program is reauthorized, the program authorized under sections 195.450
6 to 195.480 shall automatically sunset six years after the effective date of the reauthorization
7 of sections 195.450 to 195.480; and

8 (3) Sections 195.450 to 195.480 shall terminate on September first of the calendar
9 year immediately following the calendar year in which the program authorized under
10 sections 195.450 to 195.480 is sunset.

195.480. The provisions of sections 195.450 to 195.480 shall be funded with federal
2 or private grant moneys. If no federal or private grant moneys are available to implement
3 the provisions of sections 195.450 to 195.480, the prescription drug monitoring act shall be
4 implemented subject to appropriations.

✓